

(i) The person neither included the tax in the price of the article with respect to which it was imposed nor collected the amount of the tax from a vendee, and identifying the nature of the evidence available to establish these facts, or

(ii) The person repaid, or agreed to repay, the amount of the tax to the ultimate vendor of the article, or

(iii) The person has secured, and will submit upon request of the Service, the written consent of the ultimate vendor to the allowance of the credit or refund.

(3) *Ultimate vendor*—(i) *General rule*—The term “ultimate vendor”, as used in paragraph (b)(2) of this section, means the seller making the sale which gives rise to the overpayment or which last precedes the exportation or use which has given rise to the overpayment.

(ii) *Special rule under section 6416(a)(3)(B) prior to revision by the Highway Revenue Act of 1982*. In the case of an overpayment determined under section 6416(b)(2)(F), (3)(C), or (4) in respect of tires or inner tubes, where the taxable article is used as a component part of, or sold on or in connection with or with the sale of, a second article which is exported, sold to a non-profit educational organization for its exclusive use, sold to a State or local government for the exclusive use of a State or local government or used or sold for use as supplies for vessels or aircraft, the term “ultimate vendor”, as used in paragraph (b)(2) of this section, means the ultimate vendor of the second article.

(c) *Overpayments not included*. This section does not apply to any overpayment determined under section 6416(b)(1) (relating to price readjustments), section 6416(b)(3)(A) (relating to certain cases in which refund or credit is allowable to the manufacturer who uses, in the further manufacture of a second article, a taxable article purchased by the manufacturer taxpayer), section 6416(b)(3)(B) prior to April 1, 1983 (relating to parts or accessories taxable under section 4061(b) and used by a subsequent manufacturer or producer as material or a component part of any other article manufactured or produced by him), section 6416(b)(4) after March 31, 1983 (relating to tires),

section 6416(b)(5) (relating to the return to the seller of certain installment accounts which the seller had previously sold) or section 6416(b)(6) (relating to truck chassis, bodies, and semi-trailers used for further manufacture). In this regard, see §§ 48.6416(b)(1)-1, 48.6416(b)(3)-1, and 48.6416(b)(5)-1.

[T.D. 8043, 50 FR 32023, Aug. 8, 1985, as amended by T.D. 8748, 63 FR 15292, Mar. 31, 1998]

§ 48.6416(b)(1)-1 Price readjustments causing overpayments of manufacturers tax.

In the case of any payment of tax under chapter 32 that is determined to be an overpayment by reason of a price readjustment within the meaning of section 6416(b)(1) and § 48.6416(b)(1)-2 or § 48.6416(b)(1)-3, the person who paid the tax may file a claim for refund of the overpayment or may claim credit for the overpayment on any return of tax under this subpart which the person subsequently files. Price readjustments may not be anticipated. However, if the readjustment has actually been made before the return is filed for the period in which the sale was made, the tax to be reported in respect of the sale may, at the election of the taxpayer, be based either (a) on the price as so readjusted or (b) on the original sale price and a credit or refund claimed in respect of the price readjustment. A price readjustment will be deemed to have been made at the time when the amount of the readjustment has been refunded to the vendor or the vendor has been informed that the vendor's account has been credited with the amount. No interest shall be paid on any credit or refund allowed under this section. For provisions relating to the evidence required in support of a claim for credit or refund, see § 301.6402-2 of this chapter (Regulations on Procedure and Administration), § 48.6416(a)-3(a)(2), and § 48.6416(b)(1)-4. For provisions authorizing the taking of a credit in lieu of filing a claim for refund, see section 6416(d) and § 48.6416(f)-1.

[T.D. 8043, 50 FR 32024, Aug. 8, 1985]

§ 48.6416(b)(1)-2 Determination of price readjustments.

(a) *In general*—(1) *Rules of usual application*—(i) *Amount treated as overpayment*. If the tax imposed by chapter 32